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In re Application of
Mahany, et al.
Application No. 10/646,318
Filed: August 22, 2003
Atty. Dkt. 14366US02

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OFFICE OF PETITIONS

: DECISION GRANTING
: PETITIONS UNDER 37 CFR
: 1.183, 37 CFR 1.48, and
: 1.47(a)
:

This decision is in response to the renewed petitions under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3), 37 CFR 1.48, and 37 CFR 1.47, filed November 28, 2005.

The above-identified application was filed August 22, 2003 with an executed declaration naming Ronald Mahany (now deceased) and Stephen Kelly as joint inventors. Petitioners herein seek to correct the inventive entity of this application by adding Keith Cargin as a joint inventor.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a petition under 37 CFR 1.48. Petitioners are required under 37 CFR 1.48(a)(3) to submit an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or § 1.47. Petitioners are unable to comply with this requirement because newly added inventor Keith Cargin has either refused to sign the supplemental declaration or cannot be reach or located to sign the supplemental declaration.

Petitioners have established that they are unable to procure a statement from inventor Keith Cargin, the person being added as an

inventor, the error in inventorship having occurred without deceptive intention on his part.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.48

In view of the evidence presented, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48, adding Keith Cargin as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby **GRANTED**.

This application is being forwarded to Office of Initial Patent Examination for correction of PTO PALM data to reflect the inventorship as corrected and issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



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Office of Petitions